

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA

BURCHICK CONSTRUCTION COMPANY, INC

Plaintiff,

Civil Docket No. 05-CV-12E

v.

HBE CORPORATION,

Judge McLaughlin

Defendant.

**MOTION TO EXTEND DISCOVERY  
AND OTHER PRETRIAL DATES**

AND NOW COMES Defendant HBE Corporation (hereafter "HBE"), by its undersigned counsel, and moves the Court to extend the discovery cutoff date and other pretrial dates as follows:

1. HBE has determined that it has an additional claim against Plaintiff Burchick Construction Company, Inc. ("Burchick") which necessitates the extension of discovery and potentially the filing of an Amended Counterclaim.
2. HBE requests that the discovery cutoff date, presently set at Monday, September 19, 2005, be extended to and including Monday, November 21, 2005, and that all other pretrial dates be correspondingly extended.
3. HBE has sought the consent of Burchick to this motion and consent was withheld, as reflected in the attached Scheduling Motion Certificate.
4. This is a first request for extension of time.

WHEREFORE, HBE requests the Court to extend the discovery cutoff and other pretrial dates as proposed in the attached proposed Order.

Respectfully submitted,

POLITO & SMOCK, P.C.

By: \_\_\_\_\_

/s/ Michael D. Glass

PA ID No. 34431

John H. Riordan

PA ID No. 19922

Four Gateway Center, Suite 400

444 Liberty Avenue

Pittsburgh, PA 15222-1237

(412) 394-3333

*Counsel for Defendant HBE Corporation*

**CERTIFICATE OF SERVICE**

We hereby certify that on this 14th day of September, 2005, a true and correct copy of the foregoing Motion to Extend Discovery and Other Pretrial Dates was served via United States Postal Service first class mail, postage prepaid to the following counsel of record:

Kurt F. Fernsler, Esq.  
Reed Smith LLP  
435 Sixth Avenue  
Pittsburgh, PA 15219-1886

POLITO & SMOCK, P.C.

By: \_\_\_\_\_  
/s/ Michael D. Glass

UNITED STATES DISTRICT COURT  
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BURCHICK CONSTRUCTION COMPANY, INC

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Defendant.

**ORDER EXTENDING DISCOVERY  
AND OTHER PRETRIAL DATES**

AND NOW, this \_\_\_\_ day of September, 2005, it is hereby ordered as follows:

1. Paragraph 3 of the Case Management Order entered on July 27, 2005 is amended as follows:

3. Pretrial Procedures. Compliance with the provisions of Local Rule LR16.1.2 shall be completed as follows:

(a) The parties shall move to amend their pleading/add new parties within **twenty (20)** days of this order.

(b) The parties shall complete discovery, both fact and expert, on or before **November 21, 2005**. For purposes of this paragraph 3(b), the term "discovery" shall include all methods of discovery referred to in Fed.R.Civ.P.26(a). Motions for extension of discovery **must be filed** prior to the scheduled close of discovery **containing a proposed order reflective of all dates that are to be extended, not just the discovery headlines. In addition, if the motion is not jointly filed, then a Local Rule 16.1.2E Scheduling Motion Certificate must be attached.**

(c) Plaintiff's pretrial narrative statement shall be filed on or before **December 12, 2005**. Defendant's pretrial narrative statement shall be filed on or before **January 2, 2006**. Plaintiff's pretrial narrative statement shall comply with Local Rule LR 16.1.4.A.1-8. (Third-party defendant pretrial narrative statement shall comply with Local Rule LR 16.1.4.C.)

(d) On or before **December 12, 2005**, any party may file a dispositive motion which shall be accompanied by a supporting brief, and such affidavits and other supporting documentation as may be appropriate. Any responding party may file an opposing brief, together with such affidavits and opposing documents as may be appropriate on or before **January 2, 2006**. Briefs are not to exceed 25 pages in length except by leave of the Court. Any party failing to respond to a motion shall be deemed not to oppose the motion. A single short reply brief by the movant will be considered by the Court if filed within 7 days of the brief in opposition to the motion. No additional briefs will be submitted.

2. In all other respects, the Case Management Order entered on July 29, 2005 remains in full force and effect.

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United States District Judge

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**SCHEDULING MOTION CERTIFICATE**

I, Michael D. Glass, Counsel for HBE Corporation, telephoned Kurt F. Fernsler, Counsel for Burchick Construction Company, Inc., on Wednesday, September 14, 2005 at 1:20 p.m. to seek consent to: a) extending the discovery cutoff in the within matter from Monday, September 19, 2005 to Monday, November 21, 2005 and b) correspondingly extending all other pretrial dates. Mr. Fernsler indicated that consent was withheld.

There are no other parties to the within matter.

Respectfully submitted,

POLITO & SMOCK, P.C.

By: \_\_\_\_\_  
/s/ Michael D. Glass  
PA ID No. 34431  
John H. Riordan  
PA ID No. 19922  
Four Gateway Center, Suite 400  
444 Liberty Avenue  
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(412) 394-3333

*Counsel for Defendant HBE Corporation*

**CERTIFICATE OF SERVICE**

We hereby certify that on this 14th day of September, 2005, a true and correct copy of the foregoing Scheduling Motion Certificate was served via United States Postal Service first class mail, postage prepaid to the following counsel of record:

Kurt F. Fernsler, Esq.  
Reed Smith LLP  
435 Sixth Avenue  
Pittsburgh, PA 15219-1886

POLITO & SMOCK, P.C.

By: \_\_\_\_\_  
/s/ Michael D. Glass